

DEVIN DERHAM-BURK #104353  
CHAPTER 13 STANDING TRUSTEE  
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Trustee for Debtor(s)

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA - DIVISION 5

In re:

JORGE CARBAJAL JR

NICOLE ANNE CARBAJAL

Debtors

)  
)  
) Chapter 13  
) Case No 22-51078 MEH  
)  
) TRUSTEE'S OBJECTION TO CONFIRMATION  
) WITH CERTIFICATE OF SERVICE  
)  
) 341 Meeting Date: JANUARY 9, 2023, @ 9:30 AM  
) Confirmation Hearing Date: JANUARY 26, 2023  
) Confirmation Hearing Time: 1:30 PM  
) Place: Telephonic or Video Only  
)  
) Judge: M. Elaine Hammond

Devin Derham-Burk, Trustee in the above matter, objects to the Confirmation of this Plan for the following reasons:

1. The Debtors' plan is not in compliance with 11 U.S.C. §1322(b)(5) for the following reason: Wells Fargo Bank has filed a proof of claim that includes an amount for a pre-petition escrow shortage and Debtors' plan provides for direct payments to Wells Fargo Bank in Section 3.10 because Debtors believed that mortgage payments were current at the time of filing. The Trustee cannot recommend confirmation of the plan unless the Debtors either 1) amends the plan to move Wells Fargo Bank from Section 3.10 and place Wells Fargo Bank in Section 3.07 OR 2) fully pays the escrow shortage and provides the Trustee with a declaration with proof attached evidencing the full payment.

Trustee's Objection to Confirmation-22-51078 MEH

1 NOTE: If Debtors amends the plan to list Wells Fargo Bank in Section 3.07, Debtors  
2 will also need to file a declaration with attached proof that all post-petition mortgage  
3 payments to Wells Fargo Bank have been paid in order to meet the feasibility test of 11  
4 U.S.C. §1325(a)(6).

- 5
- 6 2. In order to ensure compliance with 11 U.S.C. §1325(a)(4), the Debtors must amend the  
7 Plan to provide a nonstandard provision that includes “Notwithstanding Section 3.14,  
8 general unsecured creditors shall receive no less than \$631.27.”
- 9
- 10 3. The Debtors are not in compliance with 11 U.S.C. §521(a)(1)(B)(iii). The income listed  
11 in question 4 of the Statement of Financial Affairs is inconsistent with the income listed  
12 for Mrs. Carbajal on Schedule I. An Amended Statement of Financial Affairs must be  
13 filed.
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18 Dated: January 4, 2023

/S/ Devin Derham-Burk

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Chapter 13 Trustee

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**CERTIFICATE OF SERVICE BY MAIL**

I declare that I am over the age of 18 years, not a party to the within cause; my business address is 105 Cooper Court, Los Gatos, California 95032. I served a copy of the within Trustee's Objection to Confirmation by placing same in an envelope in the U.S. Mail at Los Gatos, California on January 4, 2023.

Said envelopes were addressed as follows:

JORGE CARBAJAL JR  
NICOLE ANNE CARBAJAL  
9702 ZUNI LN  
GILROY, CA 95020

PRICE LAW GROUP APC  
6345 BALBOA BLVD #247  
ENCINO, CA 91316

/S/ Tania Ribeiro  
Office of Devin Derham-Burk, Trustee